

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 DEVIN HILL,

5 Plaintiff,

6 v.

7 OMD et al.,

8 Defendants.  
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Case No. 2:18-cv-00420-RFB-VCF

ORDER

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11 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by  
12 a former state prisoner. On March 22, 2019, this Court issued an order denying the  
13 application to proceed *in forma pauperis* for prisoners as moot because Plaintiff was no  
14 longer incarcerated. (ECF No. 3). The Court ordered Plaintiff to file a fully complete  
15 application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of  
16 \$400.00 within thirty (30) days from the date of that order. (*Id.*) The thirty-day period has  
17 now expired, and Plaintiff has not filed an application to proceed *in forma pauperis* for  
18 non-prisoners, paid the full filing fee, or otherwise responded to the Court's order.

19 District courts have the inherent power to control their dockets and "[i]n the  
20 exercise of that power, they may impose sanctions including, where appropriate . . .  
21 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
22 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
23 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
24 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance  
25 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal  
26 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856  
27 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring  
28 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833

1 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*  
2 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and  
3 failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey  
5 a court order, or failure to comply with local rules, the court must consider several factors:  
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
9 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
10 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 In the instant case, the Court finds that the first two factors, the public's interest in  
12 expeditiously resolving this litigation and the Court's interest in managing the docket,  
13 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
14 in favor of dismissal, since a presumption of injury arises from the occurrence of  
15 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
16 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
17 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
18 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
19 the court's order will result in dismissal satisfies the "consideration of alternatives"  
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
21 F.2d at 1424. The Court's order requiring Plaintiff to file an application to proceed *in forma*  
22 *pauperis* for non-prisoners or pay the full filing fee within thirty (30) days expressly stated:  
23 "IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply with this order, the  
24 Court shall dismiss this case without prejudice." (ECF No. 3). Thus, Plaintiff had  
25 adequate warning that dismissal would result from his noncompliance with the Court's  
26 order to file an application to proceed *in forma pauperis* for non-prisoners or pay the full  
27 filing fee within thirty (30) days.

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1           It IS THERFORE ORDERED that this action is dismissed without prejudice based  
2 on Plaintiff's failure to file an application to proceed *in forma pauperis* for non-prisoners  
3 or pay the full filing fee in compliance with this Court's March 22, 2019, order.

4           IT IS FURTHER ORDERED that the Clerk of Court shall close this case and enter  
5 judgment accordingly.

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7           DATED this 25th day of April, 2019.

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RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE